



HAGENS BERMAN

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October 8, 2018

**BY EMAIL**

FOIA Public Liaison  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, NW (2822T)  
Washington, DC 20460

**RE: Freedom of Information Act Request; Expedited Treatment Requested**

Dear FOIA Officer:

Pursuant to the Freedom of Information Act, 5 U.S.C. Section 552, *et seq.*, we request access to and copies of documents that are filed with, retained by, or prepared by the U.S. Environmental Protection Agency as enumerated below ("the Records"). This request is ongoing, seeking copies of (or access to) all Records as they are filed with the EPA. We are further requesting that the Records be provided to us on computer files or, if not maintained on computer files, in the same format as they are currently maintained at the EPA. This request concerns model year 2009-2013 BMW X5 and model year 2009-2011 BMW 33d vehicles ("the Vehicles").

1. Copies of e-mails and documents sent between the Environmental Protection Agency (including the Office of Air & Radiation and the Office of Transportation & Air Quality) and employees, executives or directors at BMW regarding a technology that turns off emission controls in the Vehicles. We are requesting correspondence covering the period from January 1, 2007, to the present.
2. Copies of disclosures made by BMW to the EPA concerning Auxiliary Emissions Control Devices in the Vehicles.
3. Copies of documents reflecting any deficiencies granted to BMW by the EPA concerning the Vehicles.
4. Copies of e-mails and documents sent between the Environmental Protection Agency (including the Office of Air & Radiation and the Office of Transportation & Air Quality) and employees, executives or directors at BMW regarding emissions testing and performance of the Vehicles.

5. Documents reflecting the results of confirmatory testing conducted by EPA to verify emissions data submitted by BMW in connection with the Vehicles.
6. Documents reflecting the results of in-use testing (testing that occurs after the vehicles or engines have been certified and after they have been in customer service for some period of time) conducted by EPA in connection with the Vehicles.
7. Documents reflecting the results of any other post-certification testing conducted by EPA in connection with the Vehicles.
8. Copies of BMW Voluntary Emissions Recall Reports (VERRs) submitted to date concerning the Vehicles, and Defect Reports and Emissions Service Actions accompanying or associated with each such VERR.
9. All correspondence with the law firms Latham & Watkins LLP concerning the Vehicles.
10. All correspondence with any law firm or lobbying organization concerning the Vehicles.
11. All communications with West Virginia University's (WVU) Center for Alternative Fuels, Engines & Emissions or the International Council on Clean Transportation concerning emissions testing and performance of the Vehicles.
12. Letters, emails or other correspondence after January 1, 2007, located in: (1) Office of Transportation and Air Quality; (2) Diesel Engine Compliance Center, Compliance Division, Air Enforcement Division Office of Civil Enforcement containing the term "BMW."
13. Calendar entries and minutes for meetings or telephone calls between EPA officials and BMW officials covering the period from January 1, 2007, to the present.

FOIA requires that your agency respond to this request for information within 20 business days of receipt of this letter. This request is segregable, and your agency may not withhold entire records because of one section that you believe is exempt from disclosure. In the event that this request yields a large volume of responsive material, we further ask that you provide the records on a rolling basis as they are located, rather than waiting to make one release.

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Under federal law, if you choose to withhold any such parts of the records from disclosure, you must specify in a written response the factual and legal basis for withholding any part of the Records. Please contact us if we may assist in your office's response to this request.

Sincerely,

HAGENS BERMAN SOBOL SHAPIRO LLP

A handwritten signature in black ink, appearing to be "Steve W. Berman", written in a cursive style.

Steve W. Berman

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